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Current Topics.

The Lord Chancellor's Breakfast.

AMONG the famous sayings enshrined in such books of reference as BARTLETT'S "Familiar Quotations," is the *dictum* of LORD STOWELL, the distinguished judge of the Admiralty Court, and the brother of Lord Chancellor ELDON, that "a good dinner lubricates business." Whether this was borne in mind by the present occupant of the Woolsack we do not profess to know, but his decision to revive what is popularly known as the Lord Chancellor's breakfast—really a luncheon—which has been in abeyance for some years, is gratifying as a pleasant preliminary to the work awaiting the courts and the profession during the coming Michaelmas sittings. During the régime of Lord Chancellor SELBORNE, Lord Justice BOWEN jocularly poked fun at this time-honoured function, describing it as "such a melancholy spree as Selborne's toast and Selborne's tea"; nevertheless he recognised its purpose, the bringing together in pleasant surroundings of members of the Bench and members of the Bar with its reminder that they all belong to the same great profession whose aim is the administration of justice, and all of whom are united in the common purpose of securing this end without fear or favour.

The Sanctuary of Holyrood.

IN addition to the many and striking memories clustering round it, Holyrood, where Her Majesty QUEEN MARY has recently been in residence, had many legal associations attaching to it from the days when the Abbey and its circumjacent extensive park afforded a sanctuary for debtors who could not, or would not, discharge their liabilities, until this function was rendered obsolete by the Statute 43 & 44 Vict. which abolished imprisonment for debt. Both in England and in Scotland in the old days the lot of the debtor was no enviable one. In Scotland, as we may read in Erskine's "Principles of the Law of Scotland," first published in 1754, it was the law that "After a debtor is imprisoned, he ought not to be indulged the benefit of the air, not even under a guard; for creditors have an interest that their debtors be kept under close confinement, that by the *squalor carceris* they may be brought to pay their debt." In view of this state of the law, which can only be described as brutal, it is not surprising that those who had contracted liabilities which they found themselves unable to discharge, took advantage of the right of sanctuary afforded them by such privileged places as Holyrood, which at least gave the debtor immunity from arrest so long, of course, as he limited his peregrinations to the defined area. The immunity attaching to this privileged domain did not escape the attention of Sir WALTER SCOTT, who, in more than one of his novels, touches the subject. In one of them, "The Chronicles of the Canongate," he describes the intense longing for liberty of one who was confined within the limits of the sanctuary, preferring as he did the old town of Edinburgh to the verdant turf of the Abbey precincts. To take refuge within its bounds was euphemistically termed to "take lodgings within the Abbey." It is painful to reflect that Scott himself, in his later years, when threatened with severe treatment at the instance of certain bill-brokers, actually contemplated the possibility of taking up residence within the sanctuary, unless, as he put it, he preferred the more airy residence of the Calton jail, or a trip to the Isle of Man. Happily the financial storm was weathered and the great writer was not called upon to experience in his own person the lot of those who being "drowned in debt" sought refuge within the precincts of Holyrood.

The Official Secrets Acts.

IN view of certain events of the past year it is hardly surprising the annual conference of the Institute of Journalists, which recently took place at Keswick, was largely concerned with the subject of the liberty of the Press in relation to the Official Secrets Acts. A resolution was passed to the effect that the conference accorded full approval to the action taken by the council of the Institute in protesting against what was described as the unwarrantable application of the penal provisions of the Official Secrets Acts to journalists in *bona fide* pursuit of their duties. The conference, by the same resolution expressed its profound dissatisfaction with the Home Secretary's statement to the Institute, and pledged itself to work unremittingly for amendment which would restrict operation of the Acts to cases involving the safety of the realm, as (it was said) was the intention of Parliament, and the conference requested the council to give full support, legal and financial, to any member proceeded against under the existing Acts in respect of his professional duties. Mr. NORMAN ROBSON, who moved the resolution, recalled that Sir DONALD MACLEAN, opposing the Bill of 1920,

had urged that it was objectionable because it gave no definition of an official document and because it hit at the legitimate exercise of the function of the Press. That was what journalists now said after unpleasant experiences of the Acts in operation. The speaker recalled that Sir SAMUEL HOARE, in the House of Commons, had given an undertaking that in future authorisation to use the Acts would only be given in cases where the information disclosed was itself of serious public importance. The value of such an assurance was recognised, as was also its limitations compared with a statutory enactment embodying the same provision.

Broadcasting and the Press.

Mr. H. A. TAYLOR, in the course of his presidential address, alluded to two factors which had changed the situation. One was the emergence of broadcasting, another was the commercialisation of the Press, which had become "the newspaper industry." There were, he said, many newspapers, alert and modern in the best sense, which yet maintained the finest traditions of the old regime of private ownership. On the other hand, a Press increasingly animated by the profit motive needed a stronger restraining factor somewhere in its constitution to prevent its gravitation towards any policy which had been profitable. This change, it was urged, must be kept steadily in view in calculating the reaction of Members of Parliament and the more intelligent sections of public opinion to any plea to assert themselves in defence of the freedom of the Press. The effect of broadcasting, it was intimated, was that the Press no longer possessed that monopoly of news which formerly made authority tolerate what it dare not correct. Authority was no longer obliged to adopt an accommodating attitude or to remain inactive in face of tendencies which were in its view objectionable, and Mr. TAYLOR advocated some voluntary measure of internal discipline in order to ward off the danger of external control. We have discussed this problem on former occasions in these columns and cannot enter into the matter further at this stage. We may, however, conclude by citing a resolution which was moved by Mr. C. H. REED on behalf of the Bristol branch and was passed subject to the deletion of the implications of bribery. The resolution was in the following terms: "That in view of the increasing difficulties in obtaining information from the police other than by subterfuge, which often involved the risk of bribery by journalists acting for newspaper editors or owners who do not realise professional responsibility, this conference instructs the council to seek a friendly liaison with the Chief Constables' Association, pointing out to them the desirability of affording the Press reliable information on matters of news and public interest; this would tend to eliminate leakages that are unofficial and undesirable and give newspapers with the largest purses an unfair advantage, as is often shown in big crime stories." Such a resolution exhibits a constructive attitude which may well be attended by favourable results.

The Children and Young Persons Act, 1938.

THE attention of readers may be drawn to the fact that the Children and Young Persons Act, 1938, comes into force on 1st October. In a recent circular which has been sent to juvenile court justices and clerks to the justices, to various local authorities, and to chief constables, it is explained that the new Act enlarges the powers of the juvenile courts and renders their procedure more flexible in a number of ways which the experience of the last five years has shown to be desirable, and the Home Secretary expresses the hope that the provisions of the new Act will be found to enable the juvenile courts more easily to adopt the appropriate method of treatment in the varying circumstances of the cases coming before them. Juvenile courts were, it will be remembered, established by the Children Act, 1908, which, however, laid down no special requirements for their constitution. These courts at present operate under the provisions of the Children and Young Persons Act, 1933, and the improvements introduced by the new Act have been formulated as amendments to that statute. It is not possible within the space at our command to indicate the scope and character of these amendments, but they are concisely set out in the circular to which reference has been made, and are, moreover, readily ascertainable by reference to the Act itself. Two further points may be briefly noted. Since 1920 juvenile courts in the metropolitan police area have been specially constituted, by the Juvenile Court (Metropolis) Act of that year, and s. 7 of the new Act leaves it to the discretion of the Home Secretary to direct whether these courts shall be constituted of a metropolitan police magistrate and two justices from the London juvenile court panel or of three such justices. The new Act also amends the provisions of s. 45 of the Education Act, 1921, relating to "truant" children, empowering the courts *inter alia* to make a supervision order in such cases. The Act will necessitate the making of certain new rules for regulating procedure in juvenile courts, and the circular states that these are now under consideration.

Air Transport Licences.

ATTENTION may be drawn to the fact that the Air Navigation (Licensing of Public Transport) Order, 1938, as well as certain regulations which have been made by the Secretary of State for Air for carrying out the purposes of the Order, came into operation just over a week ago (16th September). The clause contained in the Order prohibiting the flying of aircraft in contravention of the Order has not, however, been brought into operation, and the date of the coming into force of this provision is to be announced later. The Order and the regulations provide for the setting up of a licensing system of air transport in the United Kingdom to be administered by a licensing authority which, before granting a licence to operate any air transport service, is empowered to call for and consider information relative to the need for and possibilities of suggested routes, the financial resources and record of efficiency of the applicants, and the type of aircraft proposed to be used. Applications for licences are to be published with the object of affording to local authorities, aerodrome owners, public departments and air transport companies an opportunity of making representations or raising objections, and these may be followed by private or public hearings. Licences may be issued for various periods up to seven years and provision made for the attachment, if desired, of conditions as to efficient operation. It is stated that, at first, provisional licences of limited duration will be issued to companies already operating air services which apply for licences within one month of 16th September. The authority is composed of Mr. TRUSTRAM EVE, K.C. (Chairman), Major-General Sir FREDERICK SYKES and Mr. F. R. DAVENPORT, who were appointed under an Order dated 19th July. Forms of application for licences are obtainable from the Secretary, Air Transport Licensing Authority, Watergate House, York Buildings, Adelphi, London, W.C.2, to whom inquiries concerning the regulations should be addressed.

The Law Society's Provincial Meeting.

THE Fifty-fourth Provincial Meeting of The Law Society will be held at the Town Hall, Manchester, next Tuesday and Wednesday, the 27th and 28th September. The course of procedure to be adopted at the meeting, as settled by the Council of The Law Society, appears at p. 763 of this issue. A full report of the proceedings, together with the various papers read at the meeting, will be published in the issues of THE SOLICITORS' JOURNAL of the 1st and 8th October. The issue of the 1st October will be the special Law Society Number and will contain a photogravure portrait of Mr. WILLIAM WAYMOUTH GIBSON, President of The Law Society.

Public Policy.

THE RIGHT OF A PERSON CONVICTED OF MANSLAUGHTER BY NEGLIGENCE OF A TESTATOR TO CLAIM A BENEFIT FROM THE ESTATE OF THE TESTATOR.

THE recent decision in *Beresford* v. *Royal Insurance Co., Ltd.* (1938), 54 T.L.R. 789, gives rise to a point of considerable interest and importance as affecting the right of a person who has killed another under the circumstances set out above, to obtain a benefit from the estate of that other. It will be remembered that this case has now finally decided that it is contrary to public policy to allow the estate of a person, or any one claiming through him, who has insured his life, to recover the policy moneys under a policy of insurance where the event upon which the policy is to mature is the suicide of the assured while sane, and this is so regardless of the fact that the policy itself specifically provides for this eventuality.

This decision, as was stated by Lord Atkin, at p. 791, is merely one illustration of the general principle that "a man is not to be allowed to have recourse to a court of justice to claim a benefit from his crime, whether under a contract or under a gift." (In passing, an interesting similarity may be observed between these words and those which occur in a judgment of Rooke, J., delivered just over 140 years ago, in a case where he craved in aid the same principle of public policy so as to bar a claim by a person who had been guilty of an indictable offence to recover the profits of his crime. In *Farmer* v. *Russell* (1798), 1 B. & P. 296, he says this, at p. 300: "I think that a man who has been guilty of an indictable offence ought not to have the assistance of the law to recover the profits of his crime . . .")

Other examples of the application of this principle are to be found in cases dealing with rights which have arisen under a policy of assurance. Thus, the assignees in bankruptcy of a person who had been convicted of, and executed for, forgery, were held disentitled to recover under a policy of assurance: *The Amicable Society* v. *Bolland* (1830), 4 Bli. N.R. 194. Again, it was held that a wife who had been found guilty of the murder of her husband was precluded from claiming under a policy which had been effected by him on his life, and which had been expressed to be for her benefit under the Married Women's Property Act, 1882 (45 & 46 Vict., c. 75): *Cleaver* v. *Mutual Reserve Fund Life Association* [1892] 1 Q.B. 147.

Similarly, the principle has been applied in cases where the person seeking to benefit was claiming some advantage under the will of a testator where he had been found guilty of causing the death of the testator under circumstances which amounted to a felony. Thus, in *In the Estate of Crippin* [1911] P. 108, a husband who had been convicted of the murder of his wife, made, after his conviction, a will appointing a person as his executrix and universal legatee. She claimed, as such executrix, to administer the estate of the murdered wife, and, as legatee, to be entitled to her property. The court, however, passed her over as the legal personal representative of the husband and granted administration to the estate of the intestate wife. Again, it has been held that a legatee who has been found guilty of the manslaughter of her testator can claim no interest under his will, and cannot, therefore, be made a party to an action for probate of the will: *In the Estate of Hall; Hall* v. *Knight and Baxter* [1914] P. 1.

It may be observed that the application of this principle, excluding the taking of any interest under a will, has been extended so as to prevent a person who is guilty of having caused the death of a person under similar circumstances from succeeding to the estate of the dead person by virtue of a statute which provides for the devolution of the estate upon an intestacy. Thus, in *Re Sigsworth: Bedford* v. *Bedford* [1935] 1 Ch. 89, Clauson, J., as he then was, stated that, in his judgment, the principle of public policy, which precludes a murderer from claiming a benefit which has been conferred on him by his victim's will, precludes him also from claiming a benefit which had been conferred on him in the case of his victim's intestacy by statute. In coming to this conclusion he preferred the reasoning of the earlier case of *In re Pitts: Cox* v. *Kilsby* [1931] 1 Ch. 546, to the same effect, to that of *In re Houghton; Houghton* v. *Houghton* [1915] 2 Ch. 173, where a different conclusion was arrived at. In both those two cases, however, the murderer was found to have been insane, so that no question as to the application of any such principle in fact arose (see *Horns* v. *Anglo-Australian and Universal Family Life Assurance Co.* (1861), 30 L.J. Ch. 511).

It would appear that *Hall's Case, supra*, is the only example in which the principle has been applied in a case where a person who has been precluded from enforcing his legal right has been guilty of the lesser offence of manslaughter, as distinct from the graver offence of murder. The facts of that case are that the person claiming as legatee had been charged with the murder by shooting of the testator. Upon this charge she had been acquitted, but she had been convicted of manslaughter: S.C. (1913), *The Times*, 4th June.

The interesting question, therefore, arises as to whether or not any distinction can be drawn between a case of manslaughter such as that, and a case in which the gist of the charge consists in the existence of an act of criminal negligence, as, for example, in the driving of a motor car. The point was touched on by Lord Atkin in his judgment, where he says this, at p. 791: "Finally, in *In the Estate of Hall: Hall* v. *Knight and Baxter*, the court decided that a woman who had killed a testator in circumstances that amounted to manslaughter, but not, it would appear, to manslaughter by negligence, could not be allowed to claim probate as a legatee under the will of the testator."

There does not appear to be any reported case which has involved the application of this principle in a case where a person has been found guilty of manslaughter by negligence, but such a case is not unlikely to arise in view of the increasing number of charges of such a character caused by negligent driving. It is a somewhat startling thought that such a principle can be applied so as to prevent a person from recovering a benefit through the death of another, in a case where he has brought about the death through negligence only, although the circumstances show that he has been guilty of such gross negligence as to amount to manslaughter. It should, however, be borne in mind that, where the manslaughter has been brought about owing to negligence, there is no distinction between such a charge in a motoring case and in any other case where the facts establish negligence which is sufficiently gross to be criminal. As was said by Lord Atkin in *Andrews* v. *Director of Public Prosecutions* [1937] A.C. 576, at p. 583: "The principle to be observed is that cases of manslaughter in driving motor cars are but instances of a general rule applicable to all charges of homicide by negligence," and the application of this principle in other cases of criminal negligence does not appear to be as repugnant to a sense of morality as is its application in a motoring case.

An important distinction between cases of manslaughter by negligence and other cases of manslaughter is at once apparent, namely, that in the former cases there is an absence not merely of any intention to do harm, but also of any element of unlawfulness such as would be present in a case such as *Hall's Case*. Where the only charge is that of negligence, however gross it may be, the person guilty of causing the death has been guilty merely of inadvertence in failing to exercise a certain standard of care, and he has unwittingly brought about the death through such a failure. In a legal sense, however, they do involve *mens rea*, and, as was observed in *Andrews' Case, supra*, manslaughter, however caused, is a felony. It is difficult, therefore, to see upon what ground any logical distinction can be drawn between the two cases, and, according to the law as it now stands, it would appear

that upon an examination of the authorities the principle is equally applicable in the one case as in the other. A person, therefore, who has the misfortune to cause the death of another in such a manner will be precluded from enforcing any benefit which may accrue to him under the will or intestacy of his victim.

The case of *Hall, supra*, is important in this connection, and it is not uninteresting to observe that the distinction between murder and manslaughter, and this very example of manslaughter by negligent driving, was urged in argument against the application of the principle in that case, but without avail. Upon this point the judgment of Hamilton, L.J., as he then was, is important. He says this, after referring to *Cleaver's Case, supra*, at p. 7: "True that was a case of murder, but I do not think that, by using terms wide enough to cover manslaughter, the members of the court supposed themselves to be speaking *obiter*, or were in fact doing so . . . ; and I cannot understand why a distinction should be drawn between the rule of public policy where the criminality consists in manslaughter. Why should the legatee be excluded from taking the bounty when he can be hanged, and not be excluded when he can only be sent to penal servitude for life? The distinction seems to me either to rely unduly upon legal classification, or else to encourage what, I am sure, would be very noxious—a sentimental speculation as to the motives and degree of moral guilt of a person who has been justly convicted and sent to prison."

These observations are very strong as to regarding as irrelevant, in considering the application of this principle, any inquiry concerning the intention or motives which operated on the mind of the person who did the criminal act which caused the death (see also the judgment of Rowlatt, J., in a case in which a similar principle of public policy was invoked; in *R. Leslie, Ltd.* v. *Reliable Advertising and Addressing Agency, Ltd.* [1915] 1 K.B. 652, a company, which had been convicted of, and fined for, an offence, sought to recover against another person by way of damages the amount which it had had to pay by way of a fine for the criminal offence. In holding that such a claim was contrary to public policy, it would appear clear that in his judgment, in considering the question as to the application of the principle which was involved in the case before him, the learned judge held the view that it was irrelevant to consider the motives and intents with which the criminal act was committed, but that, if in fact there was proof of the commission of the act, the principle thereupon came into operation so as to defeat a claim under such circumstances. Further, in *Howard* v. *Odhams Press, Ltd.* [1938] 1 K.B. 1, Greene, L.J., as he then was, states that he does not think that, in considering the question as to whether or not a contract is void as against public policy, the motives of the parties in entering into it are to be considered).

It would appear clear, therefore, that the sole point to be considered in such a case is the question of proof of the fact that the death has been caused under such circumstances.

Against the views expressed above, there are two judgments which would appear to draw a distinction, when it is sought to apply such a principle, between a case where an act is done intentionally, and a case where it is done inadvertently although accompanied by gross negligence. These cases may appear to lend colour to the view that, where there is only an act of negligence, there is no room for the application of any such principle. It will be seen, however, that they are dealing with a class of case in respect of which special legislation applies, and it is submitted that they do not govern the determination of the question under discussion.

In *Tinline* v. *White Cross Insurance* [1921] 3 K.B. 327, and *James* v. *British General Insurance Company* [1927] 2 K.B. 311, the courts upheld the sanctity of contract and rejected a defence based on public policy which had been put forward by an insurance company. In each case the driver of a motor car, who had been involved in an accident which had caused the death of a person in respect of which he had been convicted of manslaughter, sought to be indemnified by the company under a policy of insurance against claims brought against him by a third party arising out of the accident due to his negligent driving. In their defence the company took the point (*inter alia*) that it was contrary to public policy to allow the driver to be indemnified against the consequences of his own criminal acts, i.e., manslaughter, and also in the second case drunkenness. The *ratio decidendi* of the judgments, which rejected this defence, appears to be that, inasmuch as the act which gives rise to criminal and civil responsibility in such a case is due to negligence only, and there is an absence of that degree of criminality which in the doing of a known unlawful act makes it against public policy that the perpetrator should be indemnified, such a policy is enforceable against an insurance company.

It will have been seen that these two cases were concerned only with a claim brought by a third party. And further, it may be observed, in connection with such a claim, that there are now statutory provisions in force with regard to compulsory insurance. This distinction would, therefore, appear to differentiate this class of case from the one under discussion (see observations in *Haseldine* v. *Hosken* [1933] 1 K.B. 822; and in *Beresford's Case* in the Court of Appeal [1937] 2 K.B. 197).

With regard to the limitation of the application of the principle which has been discussed, Fry, L.J., says this, in *Cleaver's Case, supra*, at p. 156: "It appears to me that no system of jurisprudence can with reason include amongst the rights which it enforces rights directly resulting to the person asserting them from the crime of that person. If no action can arise from fraud, it seems impossible to suppose that it can arise from felony or misdemeanour." Following these observations, therefore, it would appear that the principle should be applied in all cases in which a person has caused the death of another through the commission of any crime, however caused, which is either a felony or a misdemeanour.

Company Law and Practice.

Inadvertently Omitting to Value a Security.

Rule 139 of the Companies (Winding up) Rules, 1929, belongs to that part of the rules which regulates the voting of creditors in a liquidation, and provides as follows: "For the purpose of voting, a secured creditor shall unless he surrenders his security state in his proof, or in a voluntary liquidation in such statement as is hereinafter mentioned, the particulars of his security, the date when it was given, and the value at which he assesses it, and shall be entitled to vote only in respect of the balance (if any) due to him after deducting the value of his security. If he votes in respect of his whole debt he shall be deemed to have surrendered his security unless the court on application is satisfied that the omission to value the security has arisen from inadvertence."

At first sight the effect of this section is plain and obvious, and it would not occur to anyone to take exception to the manner in which it is drafted. It is therefore interesting to see what a judge of the Chancery Division can find fault with in the wording of this rule. Dealing with r. 8 contained in the Schedule to the Act of 1890, which apart from the reference to the voluntary liquidation is in identical terms with the present rule, North, J., in the case of *Ex parte Huddersfield Banking Co.* [1892] 2 Ch. 417, makes the following observations: "Now that" (i.e., the question before him in that case) "seems to depend upon a rule which is not by any means happily expressed in the Schedule of the Act of 1890, namely, r. 8. I am sorry to say the drafting of

rules and Acts does not improve as time goes on." He then states r. 8, which, as I have said, except for the reference to voluntary liquidation, is in exactly the same form as the present rule down to the words "assesses it." He then interjects the observation "that, the present creditor ought to have done when he was intending to exercise his right of voting," and then reads that part of the rule which reads "and shall be entitled to vote only in respect of the balance (if any) due to him after deducting the value of his security." "Therefore," the learned judge continues, "he having done that, ought to have voted only in respect of a much smaller sum than that for which he did vote. As far as I have read at present he has done what he ought not to have done, but no penalty has been imposed upon him for doing it. Then we come to the words showing what the penalty is: 'If he votes in respect of his whole debt he shall be deemed to have surrendered his security.' If it stopped there and the security is gone, it would be absurd for me to make the amendment which I have just suggested." This amendment was an amendment to the creditor's proof by inserting the required particulars of this security which the learned judge had already held had been omitted by inadvertence. He continues: "But that is not the end of the rule, for it says and sets out the circumstances in which the creditor may not be deemed to have surrendered his security, i.e., where the court is satisfied that the omission to value arose from inadvertence." Dealing with this part of the rule the learned judge says: "Being satisfied that the omission has arisen from inadvertence, it follows that the creditor's voting in respect of the whole debt is not to be deemed a surrender of his security; and if that is literally to be followed, inasmuch as the court does not deem him to have surrendered his security, his security remains at the full amount and his proof would stand at the full amount also. That seems to me to be the logical meaning of the words used. But it is too absurd to suppose it is really what is meant." He then goes on to avoid the difficulty which he has stated by invoking the constant practice of the courts under all sorts of circumstances of allowing proofs to be varied, amended or corrected, and he held that the proper way of putting the matter straight was to give leave to amend the proof by inserting therein the security and putting a value on it.

It is, I think, not unreasonable to assume that the practice there laid down by North, J., has been followed with satisfactory results, for since that date the rule of the drafting of which he there complains has remained in identically the same words notwithstanding the Act of 1908 and the Act of 1929. It may also be in these days that no one is any longer surprised that Acts and rules should, if logically construed, lead to an absurd result.

There are two other points of interest in that case in connection with this rule. One reason advanced why the amendment should not be allowed because the creditor had voted in respect of the proof. This point does not appear in the report of the argument, and it seem to ignore the express provisions of the rule, but noticing it in his judgment, North, J., suggests circumstances in which even though the omission to value had arisen from inadvertence, the court would not allow the proof to be amended, namely, where the creditors had got value for their vote in respect of the whole debt, for example, having thereby altered the position of the company or of some or all of the creditors of the company.

While on the topic of this rule, it would, I think, be of interest to consider what must be the nature of the inadvertence to allow the proof to be amended. In the case we have just been considering, in which, as we have seen, the omission to value was due to sufficient inadvertence, for the court to act under the rule, the circumstances were that the creditor who was in fact the holder of a direct security on the property of the company in liquidation in the not, at first sight, unreasonable belief that it was a collateral security, voted in the winding-up of the company in respect of his whole debt. The inadvertence in that case, therefore, was a simple mistake as to the nature of the creditor's security.

The question was again discussed in the case of *Re Safety Explosives Ltd.* [1904] 1 Ch. 227. The facts there were that solicitors who had a lien for costs upon the title deeds of the company in liquidation proved that debt in the winding up without valuing their lien and voted in respect of the whole debt. The form of proof had been filled up by a clerk who was ignorant of the existence of the lien. One of the partners having asked the clerk whether the proof was in order and being told that it was, signed it but afterwards deposed that neither he nor his partner had any intention of surrendering the security and that it was not until some months afterwards that they became aware that the proof made it appear that they did not hold any security. Buckley, J., granted leave to amend the proof, but his decision was reversed by the Court of Appeal. Vaughan Williams, L.J., held that the solicitors had by reason of the possible meanings attaching to their affidavits not discharged the onus of proving inadvertence, there being nothing in the evidence to exclude the possibility that the solicitor had the lien in mind but thought that if it became necessary thereafter to amend they would be able to do so. Further, even on the assumption that they had discharged the onus of showing inadvertence they should not be allowed to amend that proof, because they had handed over the deeds to a purchaser without mentioning the lien to the liquidator. Similarly, Sterling, L.J., though he thought the evidence very unsatisfactory, would not go so far as to hold that the solicitors had not made out a case of inadvertence, but held they were not entitled to succeed on the ground that the power to allow an amendment was discretionary and leave ought not to be given where the position of the liquidator had been altered since the proof was made. The reason it will be noticed is in principle the same as that foreshadowed by North, J., referred to above, for not allowing an amendment where inadvertence was proved.

Re Rowe [1904] 2 K.B., is an example of an omission to value being not through inadvertence and leave to amend being therefore refused. In that case a member of a company who owed the company money went bankrupt, and the company proved for the debt. Afterwards the company altered its articles so as to give the company a paramount lien on fully paid shares, and sought to amend their proof by valuing their lien on the fully paid shares held by the bankrupt member. This they were not allowed to do, Bigham, J., holding that they must at the time when they lodged their proof have had in mind the possibility of passing such a resolution and should be deemed to have abandoned their possible lien. That was a rather peculiar case, but it appears from the other two cases referred to that even where the omission to value was inadvertent, steps to rectify the omission should be taken before any person concerned in the liquidation has in reliance on the proof altered his position.

A Conveyancer's Diary.

The Necessity for Words of Inheritance in Settlements of Equitable Estates in Fee Simple before the L.P.A., 1925.

ONE of the blessings conferred by the L.P.A., 1925, certainly was the abolition of the need for the use of words of limitation in a conveyance of real estate. Before that Act it not infrequently happened that the omission of such words was quite accidental, but so far as legal estates were concerned the omission was always held to be fatal to the passing of any but a life estate. With regard to equitable interests in real estate, however, there was for long some uncertainty and the judicial decisions conflicted. In the case of equitable estates some judges considered that the

intention should prevail and the absence of words of limitation would not be fatal to the passing of a fee simple estate if the intention to pass such an estate was clear.

It is interesting to look at some of the more recent authorities and to see the grounds upon which the different judicial opinions were based.

In *Re Whitson's Settlement: Lovatt* v. *Williamson* [1894] 1 Ch. 661, there was a settlement of property in which the settlor had an equity of redemption. The property was settled upon trust for the settlor's wife for life with remainder to the settlor for life with remainder to such of the settlor's children as should attain twenty-one, or, being female, marry. In that limitation there were no words of inheritance. Chitty, J., after referring to many earlier cases, and to the conflict of judicial opinion, held that the children of the settlor took life interests only. It was contended that in other parts of the settlement there were indications that the children were to take the equitable fee simple, but without deciding that intention was immaterial, the learned judge appears to have considered that it was.

In *Re Tringham: Tringham* v. *Greenhill* [1904] 2 Ch. 487, the facts were that under a surrender and settlement dated in 1831 copyhold hereditaments were limited in trust for M for life, and after her death for her husband, and after the death of the survivor for the children of the marriage equally as tenants in common, and in default of issue then to such uses as M should declare by her will, with remainder to the right heirs of M. There were three children of the marriage. It was contended that the expression "in default of issue" indicated that if there were issue the limitation was complete. Joyce, J., held that there being, upon the face of the instrument, indication of an intention that absolute interests should be given to the children, notwithstanding an absence of any limitation to their heirs, they were entitled as tenants in common for equitable estates in customary fee simple.

Then in 1921 the point came before the Court of Appeal in *Re Bostock's Settlement* [1921] 2 Ch. 469.

By a marriage settlement the equity of redemption in freeholds was conveyed to trustees in fee simple to the use of the wife and husband for successive life interests and after the decease of the survivor "in trust for the child or children" of the husband "now born or hereafter to be born who shall attain the age of twenty-one years, and if more than one in equal shares as tenants in common, and if there shall be no such child then in trust for the right heirs" of the husband. The husband then assigned leaseholds, chattels and a policy of insurance upon similar trusts which, so far as the children were concerned, were expressed in identical terms. The settlement also contained a power to mortgage or charge for purposes of advancement and a hotchpot clause to the effect that no child of the husband by a former marriage was "to take any part of the trust premises herein comprised without bringing into hotchpot all sums of money and other benefits which he or she may receive" under an earlier settlement.

Eve, J., held that the children took life interests only in the freeholds upon the ground that he could not find any sufficient intention to be gathered from the settlement that they were to be entitled in fee simple.

The Court of Appeal held that the limitations in trust having been perfected and declared by the settlor they must have the same construction as in the case of legal estates executed, and therefore, in the absence of words of limitation, the children took life estates only in the freeholds. The court, however, differed from Eve, J., as to the grounds of his decision and held that if it had been necessary to decide the point there were sufficient indications in the settlement that the children should take absolute interests in the freeholds.

Lord Sterndale, M.R., laid stress upon the distinction between executed and executory trusts. His lordship said: ". . . it must be remembered that there is no doubt that the trust in this case is executed and not executory, and therefore the court has not the power which it would have in the case of an executory trust of moulding the conveyance so as to carry out the settlor's intention." Lord Sterndale quoted with approval a passage from "Lewin on Trusts," 12th ed., p. 125: "But although technical terms be not absolutely necessary, yet where technical terms are employed they shall be taken in their legal and technical sense. Lord Hardwicke, indeed, once added the qualification 'unless the intention of the testator or author of the trust plainly appear to the contrary.' But this position has been recently overruled and at the present day it must be considered a clear and settled canon that a limitation in a trust perfected and declared by the settlor must have the same construction as in the case of a legal estate executed."

The last case is *Re Arden: Short* v. *Camm* [1935] Ch. 326, a lady being a donee of a power of appointment under her father's will over certain freeholds by deed dated in 1896, appointed one third share of the hereditaments subject to her own life interest in trust for her daughter, her heirs, executors, administrators and assigns absolutely. In 1901 the donee executed a deed expressed to be supplemental to such appointment in which after reciting that the appointer was desirous of appointing the residue then remaining unappointed of the said hereditaments subject to her own life interest to another daughter and a son, the donee further exercised her power by appointing such residue subject to her life interest therein "in trust as to one fourth therein for" the daughter, "and as to three fourth shares therein for" the son "absolutely."

Clauson, J., held that the presence of the word "absolutely" showed that the appointment was not framed in strict conveyancing language, and his lordship said: "When strict conveyancing language is not employed it is sufficient that the instrument shall disclose as a matter of construction a clear intention as to the *quantum* of interest which is intended to be given." The learned judge held that there was such an intention in that case and the appointment passed the fee simple, and he added: "But for the presence of the word 'absolutely' the estates of the appointees would be life interests only."

Landlord and Tenant Notebook.

Benefit of Covenants when Lease not by Deed.

For many centuries one of the advantages of a lease by indenture was that the famous statute of 32 Hy. VIII, c. 34, applied to such instruments, but did not apply to leases by parol. "Where before this time, divers as well temporal as ecclesiastical and religious persons have made sundry leases, demises and grants to divers other persons . . . by writing *under their seal or seals* containing certain conditions, covenants and agreements" was the opening phrase of the statute. Consequently, the transfer of benefits and burdens on assignments for which the measure provided did not affect parties to mere tenancy agreements.

This was emphasised in, *inter alia*, *Standen* v. *Christmas* (1847), 10 Q.B. 135, when the purchaser of the reversion to a one-year term sued the tenant, on its expiry, for damages for breach of covenant to repair and for one gale of rent. Denman, C.J., said: "It was objected that stat. 32 Hy. VIII, c. 34, applied only to cases of demise by deed, and that the assignee of the reversion cannot sue in *assumpsit* on the contract made by the assignor. We are entirely of this opinion. . . . So on the second count, which is on an implied covenant to repair arising out of the relationship of landlord and tenant." (It was held, however, that a claim for use and occupation could succeed, by virtue of 11 Geo. 2, c. 19, s. 14.)

Next year further authority was provided by *Bickford* v. *Parson* (1848), 5 C.B. 920, which was, however, decided on a technical point deciding that a plea was bad.

It is fair to say that since then the courts have often attempted to obviate the consequences of the anomaly, and that they were assisted by the Conveyancing Act, 1881, s. 10, which spoke of but did not define "a lease"; and it would seem that L.P.A., 1925, has, albeit somewhat indirectly, finally abolished it.

This can be illustrated by reference to a few cases decided in the present century.

In *Manchester Brewery Co.* v. *Coombs* [1901] 2 Ch. 608, purchasers of a brewery concern, the property including "tied houses," sought to enforce an agreement by the tenant of one such house to buy all beer from the lessors. The tenant held under an agreement for a lease, the agreement being under seal, but never having been completed. In answer to the plea of 32 Hy. VIII, c. 34, the plaintiffs advanced arguments based on the Conveyancing Act, 1881, s. 10, and on the Judicature Act, 1873. It was found that the Conveyancing Act did not serve the purpose: "lease" in the relevant section did not include agreements for leases. But the effect of the Judicature Act, as demonstrated in *Walsh* v. *Lonsdale* (1882), 21 Ch. D. 9, C.A., was that a party entitled to specific performance of an agreement could enforce its terms as if it had been executed. And further, by s. 25 (6) of the same statute, the plaintiffs could sue as the right of action was a chose in action which had been assigned to them (they had duly given notice to the tenant).

Then in *Rickett* v. *Green* [1910] 1 K.B. 253, the purchaser (under a mortgagee's sale) of the reversion to a three years' term made by an agreement not under seal, but in writing, entered into before its commencement was held to be entitled to sue for possession under a forfeiture clause. It was pointed out that, though the agreement was not the kind which contemplated the execution of a lease, *Walsh* v. *Lonsdale*, *supra*, meant that it was to be treated as a "lease" within s. 10 of the Conveyancing Act, 1881, s. 10.

The question of implied covenants was gone into in *Wedd* v. *Porter* [1916] 2 K.B. 91, C.A., in which the plaintiff had acquired the reversion to a yearly tenancy of a farm created by holding over after the expiration of a term of years. It was held that the conduct of negotiations which had taken place showed that the covenants and conditions of the expired lease did not apply to the new tenancy, and no agreement had resulted from those negotiations as to what the rights and obligations should be. But it followed that the tenant had held under the implied covenants, including that to cultivate according to the rules of good husbandry. Now 32 Hy. VIII, c. 34, did not help the plaintiff because there was no demise under seal; the Conveyancing Act, 1881, s. 10, availed him not because there was no case for specific performance, none having been contemplated; but, as the court held, at common law implied covenants ran with the reversion, as stated in Sheppard's "Touchstone," p. 140.

An important decision comes next: *Blane* v. *Francis* [1917] 2 K.B. 252, C.A. Here again a reversion had been assigned after the creation of a tenancy by holding over, but the new landlord sued the tenant not on covenants implied by law, but on those of the original lease, which were not excluded from and would thus be imported into the new tenancy. It was definitely laid down that the Conveyancing Act, 1881, s. 10, was inapplicable to an agreement not in writing, just as 32 Hy. VIII, c. 34, could not apply to an instrument not under seal; hence judgment for the defendant was upheld.

The matter was again touched upon in *Barnes* v. *City of London Real Property Co.* [1918] 2 Ch. 18, but as the issue was decided by other considerations, Sargant, J., left open the question of the absence of a seal. I mention the case only as an indication of the state of the authorities.

Cole v. *Kelly* [1920] 2 K.B. 106, C.A., however, may be said to mark an advance from the point of view of those who consider substance to be more important than form. The tenant in this case held over, but agreed in correspondence that the tenancy should become a quarterly one. She was sued for breaches of repairing covenants by an assignee of the reversion, who had, in fact, acquired it during the currency of a notice to quit. Allowing an appeal, the Court of Appeal held that the correspondence contained (though it made no express reference to) the covenants sued upon, and *Blane* v. *Francis*, *supra*, therefore did not apply.

The most recent case is *Rye* v. *Purcell* [1926] 1 K.B. 446, which took the matter still further in the same direction. The relevant facts were that the defendant in 1900 took an assignment of a lease due to expire in 1917, the lease containing tenant's covenants to repair. In 1917 he agreed with a mortgagee of the reversion who had taken possession that he would hold over, after its expiration, at an increased rent. In September the new reversioner and the defendant made another verbal agreement, by which a new rent was fixed, and it was agreed that the tenancy should "continue until the Declaration of Peace, and probably for three months after it." The words in inverted commas are from a letter of confirmation written and signed by the reversioner's agent, which was never acknowledged by the defendant. The latter did not give up possession at or three months after the Declaration of Peace, but held over till 1920 and then left the premises in a serious state of dilapidation. Earlier in that year the freehold had been bought by the plaintiff.

It was held by McCardie, J., that just as a lease duly signed and sealed by the landlord and delivered to the tenant who entered without signing a counterpart was valid, so did the agent's letter constitute an agreement in writing which contained the covenants sued upon, and thus satisfied the Conveyancing Act, 1881, s. 10.

This was the last decision under that section, which, together with 32 Hy. VIII, c. 34, ceased to operate on the 1st January, 1926. The provisions which replace them are those of L.P.A., 1925, s. 141 (1) and (2). The sub-sections contain nothing new, and repeat the language of the Conveyancing Act provision. Hence, so far as they are concerned, *Blane* v. *Francis*, *supra*, is still good law, and where there is no written evidence of a new tenancy agreement a new reversioner can enforce only covenants implied by law.

But, as against this, the following argument may be advanced. The old Conveyancing Act, 1881, did not define "lease." Indeed, those who had to contend that it must mean at least an instrument in writing were wont to refer, not only to the "therein contained" of s. 10, but also to s. 18 (17), which, dealing with leases by mortgagors in possession, states that provisions referring to a lease should extend and apply to any letting and to an agreement, whether in writing or not, for leasing or letting: the implication being that "lease" must be a written instrument if not one under seal. Now L.P.A., s. 141, is in Pt. V of the Act, which concludes with s. 154: "This part of the Act . . . applies to, etc. . . . and '*lease*' includes an underlease or *other tenancy*." What does "other tenancy" cover? In my submission, a verbal tenancy is now within the scope of the provisions relating to the transfer of reversioners' rights, and if a letter relating to rent can "contain" covenants to repair, covenants and provisions may be "contained" in an agreement made by word of mouth or by conduct.

Sir George Rankin, who is a member of the Judicial Committee of the Privy Council, and an ex-Chief Justice of Calcutta, and Sir Cecil Hurst, the British Judge at the Permanent Court of Justice at The Hague, have agreed to become members of the Executive Council of the International Law Association. Sir Cecil Hurst will not take his seat on the Council until after his term at The Hague expires next year.

Our County Court Letter.

THE DEFINITION OF A DOWN-CALVING COW.

In a recent case at Peterborough County Court (*Hart* v. *Cooper Bros.*) the claim was for £6 as damages for breach of warranty. The plaintiff was a milkman, and his case was that, in order to fulfil a contract, he required a cow which would give a good yield of milk. The defendants had a cow which they stated was due to calve in ten days or a fortnight, and, on this representation, the plaintiff bought the cow for £23. Nevertheless the calving was delayed, and, in order to obtain the requisite supply of milk, the plaintiff bought another cow for £13 15s. This cow calved the same week and gave a gallon a day more milk than the cow bought from the defendants. The plaintiff had also incurred the expense of keeping the cow until she calved, viz., about 14s. 9d. a week. A cow would eat 1½ cwt. of hay and 4 cwt. of mangolds in a week, the price of hay being £3 10s. a ton and mangolds 15s. a ton. The defendants' case was that there was no fraud, and it was impossible to give a warranty with regard to a problematical matter such as the date of calving. The defendants did not know that the plaintiff was a dairyman, and the cow was not sold as down-calving. Had she answered that description, she would have been worth £27 or £28. His Honour Judge Campbell held that the plaintiff had specified a down-calving cow, viz., one which was on the point of calving in a day or so. The defendants had not such a cow, but they supplied one which they represented was due to calve in a fortnight or less. The cow did not answer this description, but the defendants apparently considered that they could not be sued in the absence of a written guarantee. The plaintiff had lost by the breach of warranty, and the cost of keeping the cow was 15s. a week. Judgment was given for the plaintiff for £4 10s. and costs.

THE MARKETING OF AGRICULTURAL PRODUCE.

In *Land Settlement Association Limited* v. *Lincoln Produce Co., Ltd.*, recently heard at Cambridge County Court, the claim was for £11 5s. as the price of goods sold. The case for the plaintiffs was that in April, 1938, the defendants' traveller agreed to buy lettuce, cauliflowers and mint at prices which amounted in all to £9 5s. There was no complaint about prices, and two other transactions in April amounted to £16 and £11 respectively. The defendants sent a cheque for £25 6s. 9d. on the 28th April, which was accepted on account. They subsequently denied that there was any balance outstanding. The defendants contended that they were not buyers of the goods, which had merely been dealt with on a commission basis. The full amount due to the plaintiffs had therefore been paid. His Honour Judge Campbell gave judgment for the plaintiffs with costs on Scale A.

EVIDENCE OF WRONGFUL DISMISSAL.

In *Reeves* v. *Wise*, recently heard at Birmingham County Court, the claim was for £10 15s. as arrears of wages and damages for wrongful dismissal. The plaintiff's case was that in September, 1937, he was engaged as manager of the defendant's garage at a wage of £3 3s. a week, with a promise of a partnership, on a 50 per cent. basis, if the business improved. The plaintiff had accordingly worked for three months at an average of 90 to 100 hours a week, in the endeavour to develop the business. Nevertheless he was dismissed, at a moment's notice, in January, 1938—apparently because the business was successful, and the defendant did not wish to share the profits by taking the plaintiff into partnership. The defendant denied that he had offered the plaintiff a partnership, as the business was £100 in debt and such an offer would have been unfair. During the plaintiff's managership the business lost £40, and numerous customers. The defendant was therefore entitled to dismiss him for bad work and also upon moral grounds. There was also no claim for damages, as the plaintiff immediately obtained another situation at higher wages. His Honour Judge Dale held that there was insufficient evidence of wrongful dismissal, or of loss through dismissal. The claim therefore failed. In view of the absence of any evidence of improper conduct, there was no justification for raising the question of the plaintiff's morals by way of defence. Judgment was accordingly given for the defendant, without costs.

WRIT OF ELEGIT.

In *Martin* v. *Mason*, recently heard in the Bristol Sheriff's Court, the applicant's case was that the defendant owned a house, of which one-half was let at 10s. a week. In September, 1932, the house was sold for £485, subject to a yearly rent-charge of £4 10s. At the same time a mortgage was created with a building society for £380, with subscriptions of £2 13s. 7d. a month over a period of twenty years. The principal sum had been reduced to £325 4s. 4d., and, since September, 1932, all the monthly instalments had been paid except those for April, May and June, 1938. It was necessary in assessing the annual value, to take into account the annual cost of repairs as well as the mortgage interest. The Under-Sheriff (Mr. Guy Chilton) summed up to the jury, who assessed the yearly value of the property at £25. Compare a report of a similar case, under the above title, in the County Court Letter in our issue of the 2nd April, 1938 (82 Sol. J. 269).

Reviews.

Building Societies Year Book, 1938. Compiled and Edited by George E. Franey, O.B.E. Demy 8vo. pp. 526. London: Franey & Co. Ltd. 10s. 6d. net.

The new edition of this year book contains an alphabetical list of all the building societies in Great Britain, Northern Ireland and Eire, with the principal figures in their balance sheets, and an alphabetical list of cities and towns containing the addresses of head offices, branch offices and agencies of building societies. The year's operations in Great Britain are fully reviewed and graphs and tables illustrate the great advance that has been made. The personalities of the building society world are given in a comprehensive "Who's Who," and there is also a section dealing with the affairs of The Building Societies Institute.

An Outline of Constitutional Law. By Walter Ian Reid Fraser, B.A., LL.B., Advocate, Lecturer in Constitutional Law at the University of Glasgow. 1938. Demy 8vo. pp. xi and (with Index) 228. London, Edinburgh and Glasgow: William Hodge & Co., Ltd. 10s. net.

Written, as the learned author tells us, at the suggestion of the General Council of Solicitors in Scotland, and intended primarily for candidates studying for Part II of the first professional examination for solicitors, this work seems admirably fitted to fulfil the function of introducing Scots students to the main features of constitutional law. While in many respects the relevant law is the same in Scotland as in England, there are several material differences, for example, in the organisation of the courts which it is necessary for the Scots student to bear in mind. English readers who are sometimes puzzled by the nomenclature in connection with the courts north of the Tweed will find a lucid account of them in this work, and in particular will not fail to note that the Sheriff in Scotland is not, as in England, a purely executive official, but is a judge with extensive jurisdiction both civil and criminal. The work is admirably arranged and should prove a boon for Scottish students.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, are responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Administration—Incidence of Estate Duty.

Q. 3580. In 1898 a testator died leaving the residue of his estate to be held by his trustees and the income divided equally between his daughters for their lives and at their deaths to their respective husbands for their lives, and then the capital was to be divided between their children (if any). Since the testator's death the income from the residue has been equally divided by the trustees between the daughters. One of the daughters has recently died (leaving a husband and children) and the estate duty office claim estate duty in respect of the property of which she was life tenant. We presume it will be necessary for the trustees to have the investments forming the residuary trust estate valued as at the date of the tenant for life's death and to pay the estate duty on one-fourth of the capital value (she being one of the four tenants for life). As the trustees have no cash in hand it is presumed they will have to realise a sufficient amount of the capital of the one-fourth share to pay the estate duty. If this is so, how should they divide the income in future without dividing the capital into four parts which they have been requested by the life tenant not to do.

A. One-fourth of the trust fund passed on the death of the daughter and estate duty became chargeable. The duty is a charge upon and payable out of, such one-fourth share on its value as at the death of the tenant for life. The reduction of income consequent on the sale of capital to pay the duty should be charged wholly against the one-fourth share of income payable to the husband of the deceased daughter. Thus :—

	£	s.	d.
Income of trust fund as reduced, say	450	0	0
Capital realised for duty, say £150. Add income thereof, say	5	5	0
4)	455	5	0
One-fourth share	113	16	3
Less as above	5	5	0
Share of income to husband of deceased life-tenant	£108	11	3

On the death of the husband, no further estate duty will be payable on this share (Finance Act, 1914, s. 14, proviso (*a*)); but the amount available for division among the children should be charged with the capital sum raised for payment of the estate duty on their mother's death. It should be borne in mind that the estate duty will be reduced by one-fourth of the settlement estate duty paid on the testator's death and that interest on such share of settlement estate duty is payable from the 15th August, 1914, to the representatives of the deceased daughter (Finance Act, 1914, s. 14, proviso (*b*)).

Apportionment of Road Charges.

Q. 3581. The local corporation gave notices under a special Act for the making up of a cul-de-sac running at the rear of a number of properties and used as a common right of way. As to one of the properties, all the notices to repair and apportionment of expenses have been addressed to and served on the occupiers, a firm of estate agents (with whom the owner is associated), but not to or on the actual owner. The notices not having been complied with the corporation have, however, summoned the actual owner in a court of summary jurisdiction for an order for payment of the apportioned amount. Do you consider the notices have been validly served? The owner receives the rent of the property himself, and although the estate agents occupy the property, they are not the owner's agents for management and receipt of rent. If they had been no doubt under a number of decisions the notices could have been enforced against the agents. It seems, however, irregular to serve all the notices on the occupiers and then summons the owner.

A. The fact that the owner is associated with the firm who occupy the premises is sufficient to cure the irregularity in the service of the notice and summons on different people. Apparently nothing turns upon the wording of the special Act.

Definition of Secured Creditor.

Q. 3582. A. & Co., Ltd., obtained against C. & Co., Ltd., a High Court judgment for goods supplied. In consideration of A. & Co., Ltd., not enforcing their judgment or commencing winding-up proceedings, X, a director of B. & Co., Ltd., gave A. & Co., Ltd., his personal promissory note in the usual form for the debt and costs, payable in six months. Nothing as to the consideration for which it was given appears on the note. B. & Co., Ltd., is being wound up by the court and the note is not yet due. We should be pleased to have your opinion on the following points :—

(*a*) Is A. & Co., Ltd., a secured creditor within the meaning of s. 167 of the Bankruptcy Act, 1914, so that, in proving in the winding-up, it must disclose its security?

(*b*) If A. & Co., Ltd., proves for its judgment debt in the winding-up, will it thereby be prevented from subsequently recovering the balance from X personally on the promissory note?

A. (*a*) A. & Co., Ltd., does not hold a mortgage, charge or lien on the property of the debtor (C. & Co., Ltd.) as a security. A. & Co., Ltd., is therefore not a secured creditor within s. 167 of the Bankruptcy Act, 1914. The promissory note need not be disclosed in the winding-up.

(*b*) X is a surety for C. & Co., Ltd., and, if A. & Co., Ltd., proves for its judgment in the winding-up, it will not thereby be prevented from recovering the balance from X personally.

Legacy Subject to a Contingency—Incidence of Legacy Duty.

Q. 3583. Under the will of a testator who died in 1923, four several sums of £500 were bequeathed to his trustees upon trust for investment and to hold the same for his four nieces when they respectively attained the age of thirty, and in the meantime the trustees were to pay to each niece the income from the respective trust fund so bequeathed. Three of the nieces duly attained thirty and received their respective trust funds, but the youngest died at twenty-one and her fund fell into the residue. I am informed by Somerset House that on the death of the testator legacy duty was charged on each legacy on the basis of an annuity for the number of years which had to run in each case before the legatee reached thirty and legacy duty is now claimed on the full capital value of each legacy without any allowance being made for the duty already paid, which seems to me to involve a double charge in respect of the years up to thirty. When testator died should not legacy duty have been charged on

the capital value of an annuity for so many years contingent upon their attaining thirty and then further duty on attaining thirty upon the capital value of the legacy less such a capital sum as the duty paid on testator's death would release. This seems the fair way (see "Dymond," 6th ed., p. 363, last paragraph under "Contingent Legacies."). Somerset House does not agree with this submission. They neither allow the duty then paid against the duty now claimed, nor, as I urge, do they allow the capital sum represented by the duty paid on testator's death to be deducted from the capital value of the legacy set free on attaining thirty. I should appreciate your views.

A. It is not stated what rate of duty was chargeable in respect of the residue, but it is assumed that it was *not* the same as that chargeable on the legacies. Each legacy resolves itself into two portions: (*a*) an annuity for so many years certain, subject to a contingency, viz., the death of the legatee before attaining thirty. Legacy duty became payable on this annuity (subject to adjustment if the contingency happened, Legacy Duty Act, 1796, s. 8): and (*b*) a benefit of £500 capital to the legatee on attaining thirty (or the residuary legatees if she dies under thirty). This benefit does not become chargeable with legacy duty until the legatee attains thirty or dies. These payments do not constitute a charge of double duty. If interest and income are taken into account, the two payments together are equivalent to what a legatee who attains thirty would have paid if she had paid duty on the capital at the time of the testator's death. The duty paid on an annuity basis franked the niece's benefit from 1923 until she attained thirty (or died), and cannot properly be allowed against the duty on capital which only then became payable.

Old Restrictive Covenants—WHETHER SUPPRESSION PERMISSIBLE AND IF PERMISSIBLE THE RESULTS OF THE SUPPRESSION.

Q. 3584. A by his will appointed B to be his executor and devised his house and land to his widow, C, for life, the property to be divided among certain named children after her death. A died in 1913, his will being duly proved by B, who died in 1928 intestate. Letters of administration to B's estate were granted to D and E. The house and land passing under the will were purchased by A in 1886, the then vendors (both of whom are now dead) imposing by the conveyance certain restrictions limiting the number of houses to be erected on the land. Such restrictions were not expressed to be for the benefit of any particular adjoining land, but it is possible that the property might be held to have formed part of a building estate at the time of the conveyance. A created a legal mortgage of the premises in 1890, such mortgage now being vested by virtue of various transfers in F. C has recently died, the mortgage interest is more than a year in arrear and the property is now to be sold. To avoid the necessity of obtaining a grant of representation to C's estate it is proposed that the sale shall be by the mortgagee, F, in pursuance of his powers as trustee. In the mortgage of 1890 and in the subsequent transfers of mortgage no mention is made of the restrictions contained in the deed of 1886. It will be seen, therefore, that it will be possible to sell the property with a good thirty years' title without disclosing the existence of the restrictions, and if this is possible the value of the land will be materially increased as it will be possible to erect a number of houses thereon. Your valued opinion is asked on the position generally and in particular—

(1) Is the solicitor preparing the conditions of sale under any obligation to reveal in the conditions of sale the existence of the old restrictions?

(2) In the event of any adjoining owner being able to prove the existence of a building scheme or the specific assignment to him of the benefit of the restrictions, will he be able to obtain an injunction or damages against an innocent purchaser who has bought with the usual thirty years' title commencing with the mortgage but without notice of the restrictions?

(3) Will any such adjoining owner have any remedy in damages against (*a*) the mortgagee vendor, (*b*) his solicitor, (*c*) the trustees of A's estate?

(4) If the property is offered for sale by the personal representatives of C (the tenant for life), are they under any obligation to sell subject to the restrictions?

(5) Has F power as mortgagee to offer the property for sale in lots?

(6) In the event of it being necessary to apply to the court under s. 84 of the Law of Property Act, 1925, to release the restrictions, can (*a*) the mortgagee add his costs and expenses of such application to his security, (*b*) the personal representatives of C charge their costs of such application against the trust estate?

A. (1) Yes, they constitute a defect in the title in the nature of an incumbrance.

(2) No. See L.P.A., 1925, s. 2 (5).

(3) We do not think so.

(4) Certainly (see (1), *supra*).

(5) Yes. See L.P.A., 1925, s. 101 (1) (i) and (5).

(6) We do not know of any authority upon these points. We express the opinion that in case (*a*) there would be no power to add these costs to the price of redemption, and that in case (*b*) as the personal representatives of a mere tenant for life they would be far exceeding their natural duties in making the application. See S.L.A., 1925, s. 7 (1). We therefore do not think that these costs could be charged against the trust estate.

Power of Attorney.

Q. 3585. A gave to B a power of attorney, which was expressed to be irrevocable for one year. Four months after the date of that power, A is certified as insane. The transactions for which the power was given are not involved, and, if possible, B desires to proceed under the power of attorney for the time being, in case there is any chance of A recovering, and unless necessary, an application for the appointment of a receiver is not, at this stage, desired. Having regard to the present disability of A, it is not clear whether B can still act under the power, although protection is given to certain persons dealing with B. Do you think that B is justified in continuing to act?

A. B is justified in continuing to act, in view of the Law of Property Act, 1925, s. 127 (1) (iii).

Obituary.

MR. M. H. PRANCE.

Mr. Miles Herbert Prance, solicitor, senior partner in the firm of Messrs. Lamb, Son & Prance, of Clement's Inn, W.C., and of Sutton, Surrey, died at his home at Sutton on Friday, 9th September, at the age of seventy. Mr. Prance was admitted a solicitor in 1890.

MR. G. W. ROWE.

Mr. George William Rowe, retired solicitor, formerly senior partner in the firm of Messrs. Frere, Cholmeley & Co., of Lincoln's Inn Fields, W.C., died at Kensington, on Tuesday, 20th September. Mr. Rowe was admitted a solicitor in 1877.

MR. R. SALOMONSON.

Mr. Rudolph Salomonson, retired solicitor, died recently at the age of seventy-eight. Mr. Salomonson, who was admitted a solicitor in 1887, was formerly assistant solicitor to the London and North Eastern Railway. He retired in 1925.

To-day and Yesterday

Legal Calendar.

19 September.—On the 19th September, 1877, the trial of Louis Staunton for the murder of his wife opened at the Old Bailey.

20 September.—On the 20th September, 1803, young Robert Emmett was hanged at Thomas Street in Dublin, for the abortive insurrection which only his personal heroism in the dock has invested with the radiance of a national legend. Just as the rising had failed almost before it had begun, so he was condemned almost before he was tried, for MacNally who defended him had already sold him to the Crown lawyers for £200. It was this false friend and disloyal advocate who, on the morning of his execution, visited him in prison and comforted him with the pious reflection that he would soon meet his mother in heaven.

21 September.—Madame Rachel was a Victorian forerunner of the modern beauty specialist, but no credit to the profession. On the 21st September, 1865, she was tried at the Old Bailey for defrauding a customer of over £3,000. This credulous lady was scraggy and spare, with a face ruddled with paint and hair dyed a bright yellow. Not only did she believe that Madame Rachel could make her beautiful for ever, but she also swallowed the tale that Lord Ranelagh who sometimes called at the establishment for a chat, was in love with her, though in fact he was barely aware of her existence. By providing spurious love letters the beauty expert reaped a rich harvest. After a five days' trial, she got five years penal servitude.

22 September.—One day early in September, 1783, the town of Rye was thrown into the utmost confusion when forty-seven convicts in the ship transporting them to the colonies rose, imprisoned the officers and crew, ran the vessel ashore, escaped in the long boats and plundered several houses to get themselves provisions. They then made their way to London where more than half of them were very speedily retaken. On the 22nd September the six ringleaders were hanged by way of example at Tyburn. The rest were ordered to be transported for life.

23 September.—On the 23rd September, 1768, Christian VII, the half imbecile King of Denmark, then on a state tour of England and France, paid a visit to the Temple on his way to the City of London. He arrived by river on a platform "erected and matted on purpose" under an awning of blue cloth, and was conducted by the Benchers to Middle Temple Hall, where "an elegant collation had been provided for him." Having thanked his hosts for their polite reception, he took his place in the city state coach and then preceded by the Honourable Artillery Company and attended by all the pomp of official London, proceeded on his way.

24 September.—On the 24th September, 1660, Pepys "went to the Temple Church where I had appointed Sir W. Batten to meet him and there at Sir Heneage Finch Solicitor-General's chambers, before him and Sir W. Wilde, Recorder of London (whom we sent for from his chambers) we were sworn Justices of the Peace for Middlesex, Essex, Kent and Southampton, with which honour I did find myself mightily pleased, though I am wholly ignorant in the duties of a Justice of the Peace."

25 September.—The early letters of Francis Bacon show him as a most assiduous seeker after advancement. On the 25th September, 1594, he is writing to Lord Keeper Puckering: "I was minded according to the place of employment, though not of office wherein I serve for my better direction and the advancement of the service, to have acquainted your lordship with such of Her Majesty's causes as are in my hands. Which course your lordship of your favour is willing to use for my good. And I now send to your lordship, together with my humble thanks to understand of your lordship's being at leisure what part of to-morrow to the end I may attend your lordship."

The Week's Personality.

Louis Staunton was not a pleasant character. He was an auctioneer's clerk, "blessed with the kind of good looks which housemaids call handsome," and in his early twenties he decided to free himself from an uncongenial occupation by paying court to a plain young woman of weak intellect, possessed of about £3,000. Though she was ten years his senior, he married her and soon afterwards he took a farm in Kent, while close by his younger brother Patrick, a minor artist, and his wife Elizabeth, had a cottage. It was not long before Louis had boarded his wife with them for £1 a week while he lived at the farm with Elizabeth's attractive young sister Alice. Meanwhile, his wife was kept in a garrett and by a course of deliberate starvation and neglect brought to the door of death. In her last hours she was secretly transferred to a room in Penge where, hardly more than a skeleton caked with dirt and covered with vermin, she died. Louis and the other three actors in the tragedy were tried at the Old Bailey before Hawkins, J., and convicted of murder. As the verdict was given Staunton stood gazing vacantly forward, to all appearance dazed. Sentence of death was commuted and he survived a long term of penal servitude. His brother died in prison, Elizabeth was released after four years, Alice was pardoned.

A Horse on Trial.

A newspaper recently related a story of Lewis, J., as a horseman. It seems that in a case which turned upon the manners of a cart-horse, he had the animal brought to the Law Courts quadrangle, where, after riding it up and down, he had it harnessed to a cart and tested it that way too. Even without his robes, the sagacious creature evidently recognised him as a good judge, for it behaved perfectly, and judgment was given in its favour, though it appears (or so it is alleged) that when it left the courts it was up to the old tricks complained of again. That tale can take its place beside the one related once in court by Lord Alvanley of how a barrister bought a horse warranted sound to go the circuit, but when he got it home found that it would not stir a step. When he remonstrated with the dealer, demanding how he came to sell him a horse that would not go, he received the reply: "I sold you a horse warranted sound, and sound he is, but as to his going I never thought he would go."

Making Them Feel at Home.

Very different are the impressions that the courts make on different persons. One defendant recently, having declared that it was the first time he had been in a police court and hoped it would be the last, the magistrate asked him whether he hadn't enjoyed himself, and he replied: "I prefer less expensive pleasures." On the other hand, a solicitor who asked a defendant whether he hadn't been to court before received the reply: "No, I didn't know it was so nice." Judge Greenhow, at Leeds County Court, used to have the knack of making people feel at home there. Once, when a young London barrister had reduced a woman to tears because she did not understand his questions, he intervened colloquially telling her: "Why, missis, you mustn't be afraid o' us here. We are all your friends, you know." This saved the situation, and after leaving the box the witness was heard to declare: "Eh! but aw nivver thowt aw'd be 'appy in t' court!"

Notes of Cases.

Judicial Committee of the Privy Council.

Srimati Rajlakshmi Dassi *v.* Bholanath Sen and Others.

Lord Thankerton, Lord Romer, Lord Salvesen, Sir Lancelot Sanderson and Sir George Rankin.
18th July, 1938.

IMMOVEABLE PROPERTY—TITLE—*Res judicata*—CLAIM BY FEMALE HINDHU LIFE TENANT TO POSSESSION OF PART OF ESTATE—QUESTION OF TITLE SETTLED IN HER FAVOUR IN PREVIOUS SUIT—CLAIM TO POSSESSION FOUNDED ON REASONS RELATING TO LIFE TENANT ONLY—FAILURE OF CLAIM ON QUESTION OF POSSESSION—SUBSEQUENT CLAIM BY REVERSIONARY HEIR TO COMPENSATION AWARDED IN RESPECT OF ACQUISITION OF PART OF PROPERTY IN DISPUTE—WHETHER BARRED BY LIFE TENANT'S PREVIOUS SUIT.

Appeal from a decision of the High Court, Fort William, Bengal.

An estate owner died leaving his surviving widow, who had been his third wife, and three grandchildren by his second wife who had predeceased him. By authority given to her by her husband's will, the widow adopted a son, Jogendra, who died leaving a widow, Katyani, and a daughter by Katyani, Rajlakshmi, the appellant. In 1903, Katyani, in a suit instituted by her, obtained a decree in the court of the subordinate judge pronouncing her entitled as against the three grandchildren to the whole of the estate. While an appeal by the grandsons was pending, a compromise was effected, and incorporated in a decree, whereby Katyani took a share of 6 annas, the grandsons 4 annas, and Katyani's father 6 annas. Shortly afterwards, Rajlakshmi, in order to protect her reversionary interest, instituted a suit in which she obtained a decree setting aside as invalid the compromise decree in so far as it affected her reversionary interest, and restoring that of the subordinate judge of 1903. No question was decided in that suit as to the right of the three grandsons to remain in possession of the 4 annas share during Katyani's lifetime. In 1919, Katyani instituted a suit claiming possession of the 4 annas share, that suit being dismissed on the ground that, although the subordinate judge's decree of 1903 was good as a declaration of her right in respect of title, yet she had been out of possession of the property for more than twelve years, so that her right to possession was barred by limitation. That decision was confirmed by the High Court on appeal. Rajlakshmi then brought the present suit claiming compensation money which had been awarded on the acquisition for public purposes of part of certain premises included in the share of the estate in the grandsons' possession. The grandsons resisted the claim on the ground that the matter was *res judicata* in view of Katyani's suit in 1919. The suit having been dismissed by the courts in India, Rajlakshmi now appealed. *Cur. adv. vult.*

LORD THANKERTON, delivering the judgment of the Board, said that, in the first place, the title to the estate having been finally decided in any question with the grandsons, the widow, Katyani, had no right to submit it to fresh adjudication by the courts as against the grandsons, so far as the right of the reversionary heirs was concerned, or to affect their right by any such action. In the second place, their Lordships were satisfied, on a scrutiny of the proceedings in Katyani's suit of 1919, that she was only suing in her own interest, and not as representing the reversionary heirs. The decisions of this Board, on which both the courts below had relied, showed that the decree against a female holder of the estate which had been held to be binding on a succeeding heir, had in each case involved the decision of the question of title, and not the mere question of possession. In none of the cases had the prior female holder of the estate already obtained a decree of her title to the estate against the defendants, as had Katyani in the action of 1903. His Lordship referred to *Katama Natchiar* v. *The Rajah of Shivagunga* (1863), 9 Moo. I.A. 539; *Hurrinath Chatterji* v. *Mohunt Mothoor Mohun Goswami* (1893), 20 I.A. 183; *Chaudri Risal Singh* v. *Balwant Singh* (1918), 45 I.A. 168; *Vaithialinga Mudaliar* v. *Srirangath Anni* (1925), 52 I.A. 322; and *Jaggo Bai* v. *Utsava Lal* (1929), 56 I.A. 267, as distinguishable on that ground. The appellant's rights having been settled in the suit of 1903, the title to the estate was *res judicata*, and Katyani's suit of 1919 for possession, being founded, and having failed, on grounds personal to herself, could not and did not affect the appellant's rights. The appeal must be allowed.

COUNSEL: *A. M. Dunne*, K.C., and *J. M. Pringle* for the appellant; *W. Wallach* appeared as *amicus curiæ*, the respondents not appearing.

SOLICITORS: *W. W. Box & Co.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Dinabandhu Chatterjee *v.* Ashutosh Chatterjee and Others.

Lord Thankerton, Lord Romer, Sir Lancelot Sanderson, Sir Shadi Lal, and Sir George Rankin.
18th July, 1938.

LAND REVENUE — PERMANENTLY SETTLED ESTATE — "ARREARS OF REVENUE"—MEANING—LATEST DATES IN EACH YEAR FOR PAYMENT OF ARREARS—WHEN SALE OF ESTATE BY AUCTION FOR NON-PAYMENT PERMISSIBLE —BENGAL LAND REVENUE SALES ACT (ACT 11 OF 1859), ss. 2, 3.

Appeal from a decree dated 21st June, 1935, of the High Court, Fort William, Bengal (S. N. Guha and Lodge, JJ.) reversing a decree dated 13th August, 1932, of the Second Subordinate Judge, Faridpur.

The appellant, Dinabandhu Chatterjee, was the purchaser of a permanently settled estate which was sold at auction to him as highest bidder on account of non-payment of arrears of land revenue due from the estate, which was held in three equal shares by the three respondents, Ashutosh Chatterjee, Rai Rajani Kanta Chatterjee, and Suresh Chandra Chatterjee, the last-named of whom had failed to pay within the proper time his share of the revenue which was due. The estate was accordingly sold at auction to the appellant, whereupon Ashutosh brought an action against the present appellant and his (Ashutosh's) co-sharers in the estate, impeaching the sale. The only ground material to the present appeal on which the plaintiff impeached the sale was that the Revenue Collector had no jurisdiction to hold a sale of the estate on 22nd March, 1930. Section 2 of the Bengal Land Revenue Sales Act, by way of defining an arrear of revenue, provides that if the whole of a *kist* or instalment of revenue is not paid on or before the last day of the month in which it is payable the sum remaining unpaid on the first day of the following month is an arrear of revenue. By s. 3 of the Act, the Board of Revenue are empowered to determine on what date in each year all arrears of revenue (as above defined) must be paid in each district under their jurisdiction. In default of payment on the date so fixed, the estate shall be sold at auction to the highest bidder. The Bengal Board of Revenue fixed the 12th January and the 28th March as the latest dates for payment of arrears in each year. On the 12th January, 1930, the amount outstanding from Suresh Chandra was unpaid, and the estate was accordingly sold at auction on the 22nd March, 1930. In his action Ashutosh impeached the sale on the ground that the sum unpaid on the 28th March only became an arrear on the 1st April under s. 2. The action was dismissed, but his appeal succeeded. The purchaser, Dinabandhu, now appealed.

SIR SHADI LAL, delivering the judgment of the Board, said that the expression "*kist*," as explained in the *Tauzi Manual*, issued by the Board of Revenue, Bengal, meant the period

between one latest date for payment of arrears of revenue and the next, and was not there used in the restricted meaning assigned to it in s. 2 of the Act. The appeal to the Board in *Saraswati Bahuria* v. *Surajnarayan Chaudhuri* (I.L.R. 10 Patna 496), was heard *ex parte*, and the meanings of the entry "28th March" and of the references to "*kist*" were not examined in the light of the information now available. That case must, therefore, be regarded as proceeding upon its own facts. The reasoning of the judges of the High Court was faulty, as it involved the assumption that the sum for the payment of which the 12th January was fixed, was an instalment under s. 2 of the Act, whereas it was an arrear of revenue for the payment of which the 12th January, 1930, was fixed under s. 3. In the event of non-payment on, or before, the date fixed for the payment of arrears, the estate became liable to sale, and the sale which was held on the 22nd March, 1930, after the latest date for payment of arrears, was within the jurisdiction of the collector. The appeal should be allowed.

COUNSEL: *J. M. Pringle*, for the appellant; *J. M. Parikh* and *Sir Hari Singh Gour*, for the respondents.

SOLICITORS: *Barrow, Rogers & Nevill; T. L. Wilson & Co.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Executors of Cottingham (deceased) *v.* Inland Revenue Commissioners.

Lawrence, J. 5th July, 1938.

REVENUE—SUR-TAX—TRANSFER OF ASSETS AND ASSOCIATED OPERATIONS—WHETHER TAXPAYER MUST SHOW BOTH OR ONE TO BE NOT FOR PURPOSE OF AVOIDING TAXATION—ASSESSABILITY OF EXECUTORS OF DECEASED TAXPAYER—INCOME TAX ACT, 1918 (8 & 9 Geo. 5, c. 40), All Schedules Rules, r. 18; FINANCE ACT, 1936 (26 Geo. 5 & 1 Edw. 8, c. 34), s. 18 (1) and (7).

Appeal by case stated from a decision of the Commissioners for the Special Purposes of the Income Tax Acts.

The deceased was a Canadian by birth and domicile. For some years before his death he had lived in the United Kingdom where he possessed real and personal property. In 1933 a company called Orwell Investments, Ltd., was formed to which the deceased sold a large number of shares in an English company, receiving in exchange shares and redeemable debentures in the Canadian company. Wishing for personal reasons to deprive himself of control of his estate, the deceased by settlements made in February, 1934, covenanted to transfer those holdings in the Canadian company to trustees on the trusts of the settlements. The trustees of both settlements were resident in the United Kingdom. During the year ending on the 31st March, 1936, the Canadian company paid some £23,000 to a trustee of one of the settlements, that sum being paid by the trustee to the joint account of the deceased and his wife, one of the appellants. An assessment to sur-tax for the year ending the 5th April, 1936, was made on the deceased, and included an estimate of £40,000 made by the Commissioners of the amount of income which they contended was, by virtue of s. 18 of the Finance Act, 1936, to be deemed to be the deceased's income for the period from the 6th April, 1935, to the 22nd January, 1936, when he died. The present appeal was against the estimated part of the assessment.

LAWRENCE, J., said that the first question raised by the appeal was whether, under the proviso to s. 18 (1) of the Finance Act, 1936, the individual there referred to must show that the transfer of assets and any associated operations, regarded as one transaction, were effected mainly for some purpose other than that of avoiding tax, or whether he must show that the transfer was effected mainly for some other purpose than that of avoiding liability to taxation, and that any associated operations were effected for some such purpose. The Crown submitted, and the Commissioners held, that the tax-payer must give the necessary proof in respect of both things; and the Commissioners therefore found against the tax-payer on the admitted fact that the transfer of assets was not made for any other purpose than the avoidance of taxation. The appellants contended that the Commissioners ought to have considered what was the main purpose of the transfer and associated operations regarded together, and that, on such a consideration, they should have reached the conclusion that the main purpose was not the avoidance of taxation. He (his lordship) accepted the Commissioners' construction of the proviso. The earlier part of s. 18 referred to the transfer of assets either alone or in conjunction with associated operations, and the proviso was expressed in the affirmative. The second question was whether an assessment could be made on the executors in the circumstances of the case. His lordship referred to s. 18 (7) of the Act of 1936, and said that, having come into force on the 16th July, 1936, that Act was passed with retroactive effect so as to impose sur-tax for the year 1935–36. By r. 18 of the All Schedules Rules of the Income Tax Act, 1918, where any person died without having delivered a statement of all profits chargeable to tax, an assessment of profits which accrued before the death might be made within the year of assessment or three years after. The appellants had been assessed under that rule. The appellants argued that r. 18 was not applicable because the deceased, when he died, was not chargeable to tax in view of the fact that the Act of 1936 had not yet been passed. He (his lordship) did not think that r. 18 referred to a default by the deceased, and accordingly he had not delivered a statement of his profits within the meaning of the rule. The rule being applicable, and the Act of 1936 effective retroactively to impose sur-tax, the appellant executors were assessable. Their appeal must be dismissed.

COUNSEL: *R. Needham*, K.C., and *Heyworth Talbot*, for the appellants; *the Attorney-General* (Sir Donald Somervell, K.C.) and *R. P. Hills*, for the Crown; *J. A. Wolfe* held a watching brief on behalf of an interested party.

SOLICITORS: *Herbert Smith & Co.; the Solicitor of Inland Revenue; Herbert Smith & Co.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Scammell and Nephew Ltd. *v.* Rowles (Inspector of Taxes).

Lawrence, J. 8th July, 1938.

REVENUE—INCOME TAX—PAYMENTS BY COMPANY IN PURSUANCE OF COMPROMISE OF ACTION—WHETHER INCURRED WHOLLY FOR PURPOSES OF TRADE—INCOME TAX ACT, 1918 (8 & 9 Geo. 5, c. 40), Sched. D.—RULES APPLICABLE TO CASES I AND II, r. 3.

Appeal by case stated from a decision of the Commissioners for the Special Purposes of the Income Tax Acts.

The appellants were a company of motor engineers the majority of the shares in which were held by one of the directors, one, Hood-Barrs. In February, 1932, Hood-Barrs bought half the preference shares and the majority of the ordinary shares in a company called Blue Belle Motors. Two shares in that company were respectively transferred to Hood-Barrs' two co-directors of the appellant company, and the latter became directors with Hood-Barrs also of Blue Belle Motors Ltd. The remaining shares in that company were owned by one, Toms, who was not invited to participate in its direction. When the shares in Blue Belle Motors Ltd. were acquired the appellant company were appointed managers and secretary of Blue Belle Motors Ltd., receiving £3,000 a year for their services. The appellants also supplied goods and rendered services to Blue Belle Motors Ltd. That company were, in the result, under a liability to the appellants, which was secured by the issue by Blue Belle Motors Ltd. in favour of the appellants of debentures amounting to £12,000. In May, 1932, Toms issued a writ against the appellants and the two directors claiming, *inter alia*, that he was and always had been a director of Blue Belle Motors Ltd. As a result of information received by them, Hood-Barrs and his two co-directors

issued a writ against Toms claiming damages for slander. In June, 1932, Toms obtained an interlocutory injunction restraining Hood-Barrs and his co-directors from preventing him from acting as a director of Blue Belle Motors Ltd. The directors, having been advised that their various arrangements with Blue Belle Motors Ltd. could in consequence be impeached, decided that it would be in the appellant company's interest to effect a compromise with Toms, as otherwise the appellants might lose the balance owing to them by Blue Belle Motors Ltd. Toms expressed readiness to compromise his action on terms that he should be offered the whole shareholding of Hood-Barrs and his two co-directors in Blue Belle Motors Ltd.; that the slander action should be withdrawn; that the Blue Belle debentures issued in favour of the appellants should be cancelled; and that the indebtedness of Blue Belle Motors Ltd. to the appellant company should be settled on terms to be arranged. At a meeting of directors of the appellant company, Hood-Barrs intimated that he would require to be paid £7,500 compensation as a condition of withdrawing his slander action. The co-directors were content to withdraw the slander proceedings without compensation. The appellant company then, by the votes of the two co-directors, Hood-Barrs not voting, agreed to pay Hood-Barrs £7,500, conditionally on the reaching of a settlement, and out of its proceeds. In the result, a deed of compromise was drawn up, one provision of which was that the appellants should be paid £10,562 by Blue Belle Motors Ltd., and £6,500 by Toms. The appellants, in connection with that compromise, paid the £7,500 to Hood-Barrs, £62 10s. to Toms as a contribution to his costs in his action, and £53 10s. solicitors' costs. The appellants appealed against certain assessments to income tax made upon them, on the ground that those three sums were ones expended wholly and exclusively for the purposes of their trade within the meaning of r. 3 of the rules applicable to Cases I and II of Sched. D to the Income Tax Act, 1918. The Commissioners held that the compromise was effected, not for the purposes of the appellants' trade, but in order to enable them to terminate a trading relationship which they found inconvenient, with the minimum sacrifice of the balance owing to them as a result of the relationship.

LAWRENCE, J., said that it was not suggested that the appellants' trading relations with Blue Belle Motors Ltd. or their termination had been entered into for any purpose other than that of the appellants' trade, that Hood-Barrs was not acting in good faith in demanding £7,500 for withdrawing his slander action, or that the compromise could have been effected without that withdrawal. The Commissioners had drawn the wrong inference from their own findings, and the appeal must be allowed.

COUNSEL: *J. Millard Tucker* and *Terence Donovan*, for the appellants; *the Solicitor-General* (Sir Terence O'Connor, K.C.), and *R. P. Hills*, for the Crown.

SOLICITORS: *Ashurst, Morris, Crisp & Co.; the Solicitor of Inland Revenue.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Court of Criminal Appeal.

R. *v.* Phillips; R. *v.* Quayle.

Lord Hewart, C.J., Charles and du Parcq, JJ.
27th July, 1938.

CRIMINAL LAW—PROCEDURE—INDICTMENT AGAINST TWO PRISONERS—EVIDENCE AGAINST FIRST PRISONER TAKEN BEFORE MAGISTRATE—SUBSEQUENT JOINDER OF SECOND PRISONER AS CO-DEFENDANT—PREVIOUS DEPOSITIONS READ TO WITNESSES IN PRESENCE OF SECOND PRISONER—COMMITTAL—WHETHER VALID.

Appeals against conviction.

The appellants were tried before the Commissioner at the Central Criminal Court on an indictment which contained seventeen counts. The first and nine counts charged the appellants, Phillips and Quayle, with conspiracy to defraud, the eighth count charged Quayle alone with obtaining credit by fraud in incurring a certain debt, and the remaining counts charged both appellants jointly with obtaining credit by fraud in incurring certain other debts, and with obtaining goods by false pretences. At the trial, counsel for Phillips moved to quash the indictment on the ground that the proceedings before the committing justices were so defective by reason of non-compliance with s. 17 of the Indictable Offences Act, 1848, that there was no lawful committal for trial within the meaning of s. 2 (2) of the Administration of Justice (Miscellaneous Provisions) Act, 1933. The Commissioner ruled against that submission on the part of the defence, and, in the result Quayle was acquitted on counts one to eight and convicted on counts nine to seventeen, and Phillips was convicted on each of the counts against him. Quayle was brought before the justices on or about 25th December, 1937, and proceedings were continued against him alone until 28th March, 1938, when Phillips was brought before the justices as a co-defendant with Quayle. Meanwhile, thirty-five witnesses had been called and examined. Their evidence had been taken in a regular manner, in the presence of Quayle. When Phillips was brought before the court it became necessary to recall those thirty-five witnesses in order that they might repeat their evidence, which incriminated Phillips as well as Quayle. The evidence of those thirty-five witnesses related to the charges which were subsequently embodied in counts one to seventeen (inclusive). Instead of examining each witness anew in the presence of Phillips, the justices took a course which it was thought would result in a saving of time. Each witness's deposition was read over to him, and he was then asked whether it was correct. The answer was always in the affirmative, so that there appeared at the end of each witness's deposition the signed statement: "My deposition has been read over to me and it is correct." The appellant Phillips was then given the opportunity of cross-examining the witness whose evidence he had heard given in that summary and compendious form. Quayle and Phillips now appealed against their convictions, complaining of the proceedings before the justices. *Cur. adv. vult.*

LORD HEWART, C.J., reading the judgment of the court, said that the court had no doubt that the procedure adopted by the magistrates, however convenient it might have seemed to be, was irregular and contrary to law. In the present case the irregularity was at least as serious as that which the court in *R.* v. *Gee* [1936] 2 K.B. 442; 80 SOL. J. 536, regarded as sufficiently grave to invalidate the committal. The terms of s. 17 of the Indictable Offences Act, 1848, were imperative. It was said at the Bar that the practice which was adopted by the magistrates in the present case was common, if not general. The court could not, however, regard that fact, if fact it were, as a reason for approving or condoning an irregularity which well might be prejudicial to an accused person. The conviction of Phillips on counts one to seven should be quashed. There was, however, no reason why Phillips' conviction on counts nine to seventeen should not stand; but his sentence would be reduced. It was further argued that the committal must be regarded as one and indivisible, but, when magistrates committed, as they did here, on several charges, the committals were several and distinct, and if one was bad, the others were not necessarily invalidated. That was plain from the language of s. 25 of the Indictable Offences Act, 1848. There was no ground for saying that Quayle had suffered from the irregularities, and his appeal must be dismissed.

COUNSEL: *Garth Moore* and *Boyd-Carpenter*, for the appellants; *R. E. Seaton*, for the Crown.

SOLICITORS: *The Registrar of the Court of Criminal Appeal; The Director of Public Prosecutions.*

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Land and Estate Topics.

By J. A. MORAN.

EUROPEAN fears and complications have not helped the home market for real estate. Investors and speculators seem to be as anxious as ever to add to their holdings, but it is the man, anxious to sell, who prefers to "wait and see" what the early future has in store for him. When the clouds roll by, there is no doubt that the market will speedily resume its old position. Quite a large number of very interesting properties, town and urban, are now in the market and it only wants a little encouragement to induce the owners to have them put up to public auction.

The old school-house on Deeside, which the King has just purchased, is very different from other "royal residences." There are one or two upstairs rooms, but there is no staircase, in the ordinary sense of the word—merely a ladder which gives entrance to a sort of trap-door, if you want to ascend to the bedrooms. Nevertheless, it is a delightful cottage with one big room downstairs, where, in years gone by, the bairns were taught. There is a big open fireplace with the old-fashioned "spit" still hanging over the grate.

The Yorkshire village of Sneaton, now in the market, has retained its old-world atmosphere. Strange to relate, it still possesses the ancient grate beacon which warned the countryside in times of threatened invasion. Very much like what prevails nowadays, when the danger comes from the air.

The Alderley Park estates, which are about to be put up to auction, include three old Cheshire Halls of antiquarian interest. There is the Old Hall, where the Stanley family lived for centuries; Sosmoss Hall, built in 1583, by William John Wyche, and Chorley Hall. Chorley is now used as a farmhouse, but it is well known as a fine specimen of the old black and white halls. In the early days it was surrounded by a moat, and though the channel is now dry, the stone bridge across it still remains.

If the auction market has been toned down a bit by the rumours of impending war, it continues to present a few novelties. For instance, I read in the advertising columns of a daily newspaper this week that a house about to be put up to public competition includes "three bedrooms, one having a bath." If it were having a shave and a hair cut as well, it would be sure to draw a big crowd.

Mr. Hearst wants to find a purchaser for St. Donat's Castle, his seat in Glamorgan. It has been described as the only ancient military building in this country. Yet it might be possible to live there in seclusion during the next "Great War" and not know anything of the trouble.

The old Court House, on the Green at Hampton Court, is to yield up its art treasures, Mr. Norman Lamplugh, who has spent years in assembling his collection of pictures, period furniture, silver and curios, having decided to dispose of the lot. It was, at one time, the home of Sir Christopher Wren, and it was in the front room there that the great architect died.

The proposed destruction of a "haunted house" at Higham, near Rochester, raises a few interesting questions. When the bricks and mortar and the moth-eaten staircase disappear, what happens to the spoofs? Do they hang around the ruins or move elsewhere?

The well-known Martello Tower, in Marine Drive, Seaford (Sussex), is in the market. It is one of the line of squat fortifications, having something of the appearance of pill-boxes, put up about the time of the eighteenth and nineteenth centuries to defend the coast from invasion by continental forces. It preserves its outward appearance, but the internal accommodation falls in with the requirement of tea and refreshment rooms.

Sitting at Otley, the Skyrack Assessment Committee allowed a reduction from £8 gross to £4 on a Boy Scouts' hut. A very good example to other committees. Most of us have good reason to complain of the disturbance created by uncontrolled youths in public thoroughfares; and anything that tends to occupy their spare time in a more peaceful and healthy direction should be encouraged.

There are only a few thatched houses in London, and one of them is The Hermitage, at Hanwell, the headquarters of the Selborne Society. It is now being re-thatched. The reeds have been brought from Norfolk.

What is described as probably one of the best preserved and most interesting—if not the most important in size—of the remaining specimens of early English domestic architecture, is now in the market. It is St. Mary's, Bramber, Sussex. In a lease, now among the archives of Magdalen College, it is referred to as "The Chapel House."

Societies.

The Law Society.

ANNUAL PROVINCIAL MEETING.

The Council of The Law Society have settled the following course of procedure to be adopted at the Fifty-fourth Provincial Meeting to be held on Tuesday and Wednesday, the 27th and 28th September, 1938, at the Town Hall, Manchester (Mr. W. W. Gibson, B.A., LL.M., President):—

Tuesday, 27th September, 1938, at 10.30 a.m., at the Town Hall Manchester.—The proceedings will commence with the President's address. This will be followed until the luncheon interval by a discussion on the work of The Law Society and of the Council. After luncheon the following Papers will be read: "The Objects and Scope of the Hire-Purchase Act, 1938," by G. F. Littler (Manchester); "The Effect of the New Rules on Mortgagees' Right to Possession of Mortgaged Property," by J. B. Leaver (London).

Wednesday, 28th September, 1938, at 10.30 a.m., at the Town Hall, Manchester.—"The Inheritance (Family Provision) Act, 1938, and Restriction upon the Right of Testamentary Disposition in English Law," by Geoffrey C. Bosanquet (London); "The Increase of Rent and Mortgage Interest (Restrictions) Act, 1938," by Fredk. G. Jackson (Leeds); "Legal Aid for the Poor," by J. E. Allen-Jones, M.A. (Oxon) (Manchester).

The President may make such alteration in the order of the Papers as he may think convenient.

SCHOOL OF LAW.

Copies of the annual prospectus for the Session 1938–39 and of the detailed time-table for the Autumn Term can be obtained on application to the Principal's Secretary.

The Principal (Dr. G. R. Y. Radcliffe) will be in his room to advise students on their work on Wednesday and Thursday, 28th and 29th September, from 10.30 a.m. to 12.30 p.m., and from 2 p.m. to 4.30 p.m. The first lectures will be held on 3rd October.

For Intermediate Students there will be courses on (i) Public Law: The Constitution; (ii) The Law of Property in Land (Part I); (iii) The Law of Contract; (iv) Accounts and Book-keeping and (v) Trust Accounts.

Intermediate Students must notify the Principal's Secretary not later than 30th September on the entry form, whether they wish to take morning or afternoon courses.

The final subjects on the time-table for the Autumn Term are (i) Property and Conveyancing and Bills of Sale; (ii) Company Law and Bankruptcy; and (iii) Agency: Master and Servant. Teaching will also be provided during the term in two optional subjects for the Final Examination, viz., (i) The Law of Shipping (Part I), and (ii) Conflict of Laws.

There will also be courses on (i) Equity, (ii) Criminal Law, (iii) Contract, and (iv) Jurisprudence (Part I), for Honours and Final LL.B. students; and on (i) The English Legal System, and (ii) Roman Law (Part I), for Intermediate LL.B. students.

Copies of the regulations governing the three Studentships of £40 a year each, offered by the Council for award in July, 1939, can be obtained on application to the Principal's Secretary.

Solicitors' Benevolent Association.

The Annual General Meeting of the Solicitors' Benevolent Association will be held at the Town Hall, Manchester, on Wednesday, the 28th September, at 9.45 a.m.

Legal Notes and News.

Honours and Appointments.

The India Office announces that the King has been pleased to approve the appointment of Mr. Justice ARTHUR TREVOR HARRIES, Puisne Judge of the High Court of Judicature at Allahabad, as Chief Justice of the High Court of Judicature at Patna, in the vacancy which has arisen consequent on the death of Sir Courtney Terrell.

Mr. PHILIP B. DINGLE, LL.M., Senior Assistant Solicitor to the Manchester Corporation, has been appointed Deputy Town Clerk as from 1st October next. Mr. Dingle was admitted a solicitor in 1928.

Notes.

The next Quarter Sessions of the Peace for the Borough of Wolverhampton will be held at the Sessions Court, Town Hall, North Street, Wolverhampton, on Friday, the 7th October, at 10 o'clock in the forenoon.

A tablet to the memory of Mr. Llewellyn Williams, K.C., Recorder of Cardiff from 1915 to his death in 1922, and M.P. for Carmarthen for twelve years, was unveiled at his birthplace, Llansadwrn (Carmarthenshire) last week.

The annual meeting of the Clerk of the Peace Golfing Society for England and Wales was held at the Royal St. David's Club, Harlech, last week-end. C. P. Brutton (Dorset), the holder, again won the challenge cup in the 36-holes competition, having a total of 161. E. Harvey (Northumberland) was second with 165 and C. H. Carter (Northumberland) third with 172.

The London School of Economics and Political Science (University of London) announces that two Special University Lectures, on "Formes de Socialbilite et especes de Droit," will be given by Professor Georges Gurvitch on Monday and Tuesday, 17th and 18th October, at 5 p.m. The chair will be taken at the first lecture by Professor H. F. Jolowicz, M.A., LL.M., LL.D. Admission free without ticket.

The "Lord Chancellor's Breakfast," which was discontinued some years ago on the ground of economy, is to be revived this year by Lord Maugham. About 700 guests will be invited. The breakfast, given in the Royal Gallery of the House of Lords, is attended by judges and barristers, and precedes the return of the judges to the Law Courts at the end of the Long Vacation and the beginning of Michaelmas Term on 12th October. See also the "Current Topic" on p. 749 of this issue.

A Votive Mass of the Holy Ghost (The Red Mass) will be said at Westminster Cathedral on Wednesday, 12th October, 1938 (the opening of the Michaelmas Law Term), at 11.30 a.m. His Eminence the Cardinal Archbishop of Westminster will preside. Counsel will robe in the Chapter Room at the Cathedral. The seats behind Counsel will be reserved for Solicitors. Will those desirous of attending please inform the Hon. Secretary, Society of Our Lady of Good Counsel, 6, Maiden Lane, W.C.2, so that an adequate number of seats may be reserved.

Mr. Henry Seatle Gunson, retired solicitor, of Haywards Heath, left £26,376, with net personalty £24,721. He left, subject to a life interest: £200 each to Moorfields Eye Hospital, Princess Elizabeth of York Hospital for Children, Brompton Hospital, and Shaftesbury Society and Ragged School Union; and a remainder to the Governors of Sedbergh School.

NOTICE TO CONTRIBUTORS.

The Editor will be pleased to consider for publication contributions and correspondence from any professional source upon matters of legal interest.

All contributions (including correspondence) should be typewritten and on one side of the paper only, and must be accompanied by the name and address of the contributor.

The Editor is unable to accept any responsibility for the safe custody of contributions submitted to him, and copies should therefore be retained. The Editor will, however, endeavour in special circumstances to return unsuitable contributions within a reasonable period, if a request to this effect and a stamped addressed envelope are enclosed with the manuscript.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 13th October 1938.

	Div. Months.	Middle Price 21 Sept. 1938.	Flat Interest Yield.			‡ Approximate Yield with redemption		
ENGLISH GOVERNMENT SECURITIES			£	s.	d.	£	s.	d.
Consols 4% 1957 or after	FA	107½	3	14	5	3	8	9
Consols 2½%	JAJO	72½	3	9	0		—	
War Loan 3½% 1952 or after ...	JD	100½	3	9	8	3	9	1
Funding 4% Loan 1960-90	MN	111	3	12	1	3	5	9
Funding 3% Loan 1959-69	AO	96½	3	2	2	3	3	6
Funding 2¾% Loan 1952-57	JD	95	2	17	11	3	2	0
Funding 2½% Loan 1956-61	AO	89	2	16	2	3	3	8
Victory 4% Loan Av. life 21 years ...	MS	108	3	14	1	3	9	2
Conversion 5% Loan 1944-64 ...	MN	112½	4	8	11	2	6	6
Conversion 3½% Loan 1961 or after	AO	99½	3	10	4		—	
Conversion 3% Loan 1948-53 ...	MS	100	3	0	0	3	0	0
Conversion 2½% Loan 1944-49 ...	AO	97	2	11	7	2	16	4
Local Loans 3% Stock 1912 or after	JAJO	85½	3	10	2		—	
Bank Stock	AO	338	3	11	0		—	
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	80½	3	8	4		—	
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	90	3	6	8		—	
India 4½% 1950-55	MN	112	4	0	4	3	5	6
India 3½% 1931 or after	JAJO	89½	3	18	3		—	
India 3% 1948 or after	JAJO	77½	3	17	5		—	
Sudan 4½% 1939-73 Av. life 27 years	FA	106½	4	4	6	4	1	11
Sudan 4% 1974 Red. in part after 1950	MN	106½	3	15	1	3	6	8
Tanganyika 4% Guaranteed 1951-71	FA	106½	3	15	1	3	6	8
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	105	4	5	9	2	19	1
Lon. Elec. T. F. Corpn. 2½% 1950-55	FA	87½	2	17	2	3	9	9
COLONIAL SECURITIES								
Australia (Commonw'th) 4% 1955-70	JJ	99½	4	0	5	4	0	7
Australia (Commonw'th) 3% 1955-58	AO	85½	3	10	2	4	1	6
*Canada 4% 1953-58	MS	106½	3	15	1	3	8	9
Natal 3% 1929-49	JJ	98½	3	0	11	3	3	7
New South Wales 3½% 1930-50 ...	JJ	93½	3	14	10	4	3	11
New Zealand 3% 1945	AO	91½	3	5	7	4	11	0
Nigeria 4% 1963	AO	104	3	16	11	3	15	0
Queensland 3½% 1950-70	JJ	92½	3	15	8	3	18	6
*South Africa 3½% 1953-73	JD	100½	3	9	8	3	9	2
Victoria 3½% 1929-49	AO	96	3	12	11	3	19	2
CORPORATION STOCKS								
Birmingham 3% 1947 or after ...	JJ	84½	3	11	0		—	
Croydon 3% 1940-60	AO	93½	3	4	2	3	8	6
*Essex County 3½% 1952-72 ...	JD	101½	3	9	0	3	7	3
Leeds 3% 1927 or after	JJ	84½	3	11	0		—	
Liverpool 3½% Redeemable by agreement with holders or by purchase...	JAJO	97½	3	11	10		—	
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	70½	3	10	11		—	
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	84	3	11	5		—	
Manchester 3% 1941 or after ...	FA	81½	3	13	7		—	
Metropolitan Consd. 2½% 1920-49 ...	MJSD	95½	2	12	4	2	19	9
Metropolitan Water Board 3% "A" 1963-2003	AO	87½	3	8	7	3	9	9
Do. do. 3% "B" 1934-2003 ...	MS	88½	3	7	10	3	8	11
Do. do. 3% "E" 1953-73 ...	JJ	95½	3	2	10	3	4	4
*Middlesex County Council 4% 1952-72	MN	106½	3	15	1	3	8	2
* Do. do. 4½% 1950-70	MN	109½	4	2	2	3	10	4
Nottingham 3% Irredeemable ...	MN	85½	3	10	2		—	
Sheffield Corp. 3½% 1968	JJ	100½	3	9	8	3	9	6
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS								
Gt. Western Rly. 4% Debenture ...	JJ	103½	3	17	4		—	
Gt. Western Rly. 4½% Debenture ...	JJ	111½	4	0	9		—	
Gt. Western Rly. 5% Debenture ...	JJ	124½	4	0	4		—	
Gt. Western Rly. 5% Rent Charge ...	FA	118½	4	4	5		—	
Gt. Western Rly. 5% Cons. Guaranteed	MA	108¼	4	12	2		—	
Gt. Western Rly. 5% Preference ...	MA	89	5	12	4		—	
Southern Rly. 4% Debenture ...	JJ	103½	3	17	4		—	
Southern Rly. 4% Red. Deb. 1962-67	JJ	106½	3	15	1	3	11	9
Southern Rly. 5% Guaranteed ...	MA	112½	4	8	11		—	
Southern Rly. 5% Preference ...	MA	89	5	12	4		—	

* Not available to Trustees over par.

‡ In the case of Stocks at a premium, the yield with redemption has been calculated at the earliest date; in the case of other Stocks, as at the latest date.